

Assembly Bill No. 2017

CHAPTER 217

An act to amend Sections 1094, 1095, 1110, 1112, 1328, and 2714 of, and to repeal Sections 1095.1 and 2060 of, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor July 26, 1998. Filed with
Secretary of State July 27, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2017, Takasugi. Unemployment insurance: benefits: contributions: disclosure of information.

(1) Existing law requires the Employment Development Department to pay unemployment compensation benefits to eligible claimants. Existing law requires the department to consider facts submitted by a claimant's employer, and if benefits are claimed subsequent to the filing of the claim, to make a determination as to the claimant's eligibility for benefits.

This bill would, instead require the department to consider the facts submitted by the employer and make a determination regarding eligibility for benefits.

(2) Existing law requires employers to make contributions, at specified rates, toward unemployment insurance and authorizes certain employers, subject to the approval of the department, to elect to make those contributions on an annual basis. Existing law also provides for certain penalties for failing to make those contributions, including a penalty for failing to remit payments by electronic funds transfer when required to do so.

This bill would change the effective date of an election to make contributions on an annual basis, and would make the penalty for failing to remit contributions by electronic funds transfer applicable only if an employer, without good cause, fails to remit payments by electronic funds transfer when required to do so.

(3) Existing law requires that information obtained by the Director of Employment Development in carrying out his or her duties remain confidential, subject to certain exceptions where disclosure by the director is permitted.

This bill would revise and recast certain of those provisions and would create a new crime for willfully accessing, using, or disclosing confidential information without authorization. By creating this new crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the

state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1094 of the Unemployment Insurance Code is amended to read:

1094. (a) Except as otherwise specifically provided in this code, the information obtained in the administration of this code is confidential, not open to the public, and shall be for the exclusive use and information of the director in discharge of his or her duties.

(b) The information released to authorized entities pursuant to other provisions of the code shall not be admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this code or one described in Section 1095.

(c) The information may be tabulated and published in statistical form for use by federal, state, and local governmental departments and agencies, and the public, except that the name of the employing unit or of any worker shall never be divulged in the course of the tabulation or publication.

(d) Wages as defined by Section 13009 and amounts required to be deducted and withheld under Section 13020 shall not be disclosed except as provided in Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(e) Any person who knowingly accesses, uses, or discloses any confidential information without authorization is in violation of this section and is guilty of a misdemeanor.

SEC. 2. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:

(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).

(e) To enable an employer to receive a reduction in contribution rate.

(f) To enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of Social Security Act, where the verification or determination is directly connected with, and limited to, the administration of public social services.

(g) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

(h) To enable state or local governmental departments or agencies to seek criminal, civil, or administrative remedies in connection with the unlawful application for, or receipt of, relief provided under Division 9 (commencing with Section 10000) of the Welfare and Institutions Code or to enable the collection of expenditures for medical assistance services pursuant to Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(i) To provide any law enforcement agency with the name, address, telephone number, birth date, social security number, physical description, and names and addresses of present and past employers, of any victim, suspect, missing person, potential witness, or person for whom a felony arrest warrant has been issued, when a request for this information is made by any investigator or peace officer as defined by Sections 830.1 and 830.2 of the Penal Code, or by any federal law enforcement officer to whom the Attorney General has delegated authority to enforce federal search warrants, as defined under Sections 60.2 and 60.3 of Title 28 of the Code of Federal Regulations, as amended, and when the requesting officer has been designated by the head of the law enforcement agency and requests this information in the course of and as a part of an investigation into the commission of a crime where there is a reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the law enforcement agency that employs him or her, for filing under the normal procedures of that agency.



(1) This subdivision shall not be construed to authorize the release of a general list identifying individuals applying for or receiving benefits to any law enforcement agency.

(2) The department shall maintain records pursuant to this subdivision only for periods required under regulations or statutes enacted for the administration of its programs.

(3) This subdivision shall not be construed as limiting the information provided to law enforcement agencies to that pertaining only to applicants for, or recipients of, benefits.

(4) The department shall notify all applicants for benefits that release of confidential information from their records will not be protected should there be a felony arrest warrant issued against the applicant or in the event of an investigation by a law enforcement agency into the commission of a felony.

(j) Nothing in this section shall be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

(k) To provide public employee retirement systems in California with information relating to the earnings of any person who has applied for or is receiving a disability income, disability allowance, or disability retirement allowance, from a public employee retirement system. The earnings information shall be released only upon written request from the governing board specifying that the person has applied for or is receiving a disability allowance or disability retirement allowance from its retirement system. The request may be made by the chief executive officer of the system or by an employee of the system so authorized and identified by name and title by the chief executive officer in writing.

(l) To enable the Division of Labor Standards Enforcement in the Department of Industrial Relations to seek criminal, civil, or administrative remedies in connection with the failure to pay, or the unlawful payment of, wages pursuant to Chapter 1 (commencing with Section 200) of Part 1 of Division 2 of, and Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of, the Labor Code.

(m) To enable federal, state, or local governmental departments or agencies to administer child support enforcement programs under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(n) To provide federal, state, or local governmental departments or agencies with wage and claim information in its possession that will assist those departments and agencies in the administration of the victims of crime program or in the location of victims of crime who, by state mandate or court order, are entitled to restitution that has been or can be recovered.

(o) To provide federal, state, or local governmental departments or agencies with information concerning any individuals who are or have been:



(1) Directed by state mandate or court order to pay restitution, fines, penalties, assessments, or fees as a result of a violation of law.

(2) Delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by those agencies. The information released by the director for the purposes of this paragraph shall not include unemployment insurance benefit information.

(p) To provide an authorized governmental agency with any or all relevant information that relates to any specific workers' compensation insurance fraud investigation. The information shall be provided to the extent permitted by federal law and regulations. For the purposes of this subdivision, "authorized governmental agency" means the district attorney of any county, the office of the Attorney General, the Department of Industrial Relations, and the Department of Insurance. An authorized governmental agency may disclose this information to the State Bar, the Medical Board of California, or any other licensing board or department whose licensee is the subject of a workers' compensation insurance fraud investigation. This subdivision shall not prevent any authorized governmental agency from reporting to any board or department the suspected misconduct of any licensee of that body.

(q) To enable the Director of the Bureau for Private Postsecondary and Vocational Education, or his or her representatives, to access unemployment insurance quarterly wage data on a case-by-case basis to verify information on school administrators, school staff, and students provided by those schools who are being investigated for possible violations of Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code.

(r) To provide employment tax information to the tax officials of Mexico, if a reciprocal agreement exists. For purposes of this subdivision, "reciprocal agreement" means a formal agreement to exchange information between national taxing officials of Mexico and taxing authorities of the State Board of Equalization, the Franchise Tax Board, and the Employment Development Department. Furthermore, the reciprocal agreement shall be limited to the exchange of information which is essential for tax administration purposes only. Taxing authorities of the State of California shall be granted tax information only on California residents. Taxing authorities of Mexico shall be granted tax information only on Mexican nationals.

(s) To enable city and county planning agencies to develop economic forecasts for planning purposes. The information shall be limited to businesses within the jurisdiction of the city or county whose planning agency is requesting the information, and shall not include information regarding individual employees.

(t) To provide the State Department of Developmental Services with wage and employer information that will assist in the collection

of moneys owed by the recipient, parent, or any other legally liable individual for services and supports provided pursuant to Chapter 9 (commencing with Section 4775) of Division 4.5 of, and Chapter 2 (commencing with Section 7200) and Chapter 3 (commencing with Section 7500) of Division 7 of, the Welfare and Institutions Code.

(u) The disclosure of the name and address of an individual or business entity that was issued an assessment that included penalties under Section 1128 or 1128.1 shall not be in violation of Section 1094 if the assessment is final. The disclosure may also include any of the following:

(1) The total amount of the assessment.

(2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.

(3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

SEC. 3. Section 1095.1 of the Unemployment Insurance Code is repealed.

SEC. 4. Section 1110 of the Unemployment Insurance Code is amended to read:

1110. (a) Employer contributions required under Sections 976 and 976.6, the amount of benefits received by any individual pursuant to this part that is deducted from an award or settlement made by the employer under the provisions of Section 1382, and, except as provided by subdivision (b) of this section, worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of that month.

(b) Workers' contributions required under Section 984 are due and payable at the same time and by the same method as amounts required to be withheld under Section 13020 are paid to the department pursuant to Section 13021, regardless of the amount of accumulated unpaid liability for workers' contributions.

(c) Employer contributions submitted pursuant to Section 976.5 shall be paid on or before the last working day of March of the calendar year to which the reduced contribution rate would be applicable. Any employer whose eligibility for an unemployment insurance contribution rate determination is redetermined to make that employer eligible to submit voluntary unemployment insurance contributions in accordance with Section 976.5, may submit a voluntary unemployment insurance contribution within 30 days of the date of notification of the redetermination.

(d) Except as provided in subdivision (e), any employer described in Sections 682 and 684 may elect to report and pay employer contributions required under Sections 976 and 976.6, and worker contributions required under Section 984, annually. All contributions are due and payable on the first day of January



following the close of the prior calendar year and shall become delinquent if not paid on or before the last day of that month. An election under this subdivision shall be effective the first day of the calendar year in which it is approved by the department. An election under this subdivision shall not be approved if the employer has an outstanding return or report delinquency on the records of the department, or an unpaid amount owed to the department, that is not the subject of a timely petition for reassessment pending before the appeals board at the time the election is filed.

(e) Any employer described in Sections 682 and 684 who pays more than twenty thousand dollars (\$20,000) in wages annually, shall not be entitled to the election allowed in subdivision (d). If at any time during the year the total wages paid by an employer electing to file under subdivision (d) exceeds twenty thousand dollars (\$20,000), the election shall be terminated at the close of that calendar quarter. In addition to the report of wages due for that quarter, the employer shall file a return and pay any contributions due for that portion of the year during which the election was in effect, and shall pay contributions in accordance with subdivisions (a), (b), and (c) for the remainder of that year.

(f) Contributions due pursuant to this section may be submitted by electronic funds transfer, as defined in Section 13021.5. Contributions submitted by electronic funds transfer shall be deemed complete in accordance with paragraph (4) of subdivision (e) of Section 13021.

SEC. 5. Section 1112 of the Unemployment Insurance Code is amended to read:

1112. (a) Any employer who without good cause fails to pay any contributions required of him or her or of his or her workers, except amounts assessed under Article 8 of this chapter, within the time required shall pay a penalty of 10 percent of the amount of those contributions.

(b) Any employer required to remit payments by electronic funds transfer pursuant to Section 13021, who without good cause remits those amounts by means other than electronic funds transfer shall pay a penalty of 10 percent of the amount of those contributions.

SEC. 6. Section 1328 of the Unemployment Insurance Code is amended to read:

1328. The department shall consider the facts submitted by an employer pursuant to Section 1327 and make a determination as to the claimant's eligibility for benefits. The department shall promptly notify the claimant and any employer who prior to the determination has submitted any facts or given any notice pursuant to Section 1327 or this section and authorized regulations of the determination or reconsidered determination and the reasons therefor. If after notice of a determination or reconsidered determination the employing unit acquires knowledge of facts which may affect the eligibility of

the claimant and those facts could not reasonably have been known within the 10-day period provided by Section 1327, the employing unit shall within 10 days of acquiring that knowledge submit those facts to the department, and the 10-day period may be extended for good cause. The claimant and any such employer may appeal from a determination or reconsidered determination to an administrative law judge within 20 days from mailing or personal service of notice of the determination or reconsidered determination. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal.

SEC. 7. Section 2060 of the Unemployment Insurance Code is repealed.

SEC. 8. Section 2714 of the Unemployment Insurance Code is amended to read:

2714. All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part, or as provided elsewhere in law shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his or her disability. Medical records that are disclosed shall be disclosed only pursuant to Section 1095, and in any case, shall remain confidential.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

